

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff

v.

[1] NELSON ACEVEDO CRUZ,
[2] NORAIDA BELTRAN,

Defendants.

CRIMINAL NO. 04-381 (DRD)

**UNITED STATES OF AMERICA'S MOTION
FOR FINAL ORDER OF FORFEITURE**

TO THE HONORABLE COURT:

COMES NOW, plaintiff, the United States of America, by and through its undersigned attorneys, and very respectfully moves this Honorable Court for a Final Order of Forfeiture in the above captioned, and in support thereof presents to the Court the following facts:

On July 3, 2006, the parties reached a Stipulation Regarding Forfeiture that sought the forfeiture of the following properties [Docket No. 90] as charged in the Indictment:

- I. TWO CONTIGUOUS TRACTS OF LAND EQUALING APPROXIMATELY 10.5 CUERDAS INCLUDING A TWO LEVEL CONCRETE STRUCTURE, WITH SEVEN BEDROOMS, AND A DETACHED MULTI-LEVEL GARAGE, LOCATED AT PR 4419, KM 2.0, NARANJO WARD, MOCA, PUERTO RICO.
- ii. All United States currency in Banco Popular de Puerto Rico Account 485052304 in the name of [1] Nelson Acevedo-Cruz, totaling approximately \$94,097.89 dollars.
- iii. All United States currency in Banco Popular de Puerto Rico Account 085-030023 in the name of [1] Nelson Acevedo-Cruz, doing business as Palacio Video totaling approximately \$14,326.00 dollars.

- iv. All United States Currency in Western Bank Account 28000000919 in the name of [1] Nelson Acevedo Cruz and Edwin Cortes totaling approximately \$4,383.00 dollars.

In the Stipulation Regarding Forfeiture and Restitution defendants Nelson Acevedo-Cruz and Noraida Beltran (“defendants”) agreed to forfeit any right or interest in the properties to the United States of America. In addition, defendants agreed that \$100,000.00 dollars jointly and severally is to be imposed as restitution. The United States agreed that the amount of restitution imposed by the Court shall be satisfied from the proceeds of the sale of the property identified as (I). Accordingly, criminal judgments were entered against defendants on July 3, 2006. *See* Docket Nos. 193 and 194.

On May 7, 2007, the Court entered an Amended Preliminary Order of Forfeiture which any and all of the defendants’ interest in the properties are forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316. *See* Docket No. 255.

On August 3, 2007, Defendants filed a Motion to Stay and Annulment of all Forfeiture. *See* Docket No. 263. On August 7, 2007, the United States filed an opposition to Motion to Stay, and the Court denied defendants’ Motion to Stay. *See* Docket Nos. 266 and 269.

On January 12, 2009, defendants filed a Motion to Vacate under Title 28, United States Code, Section 2255. *See* Docket Nos. 277 and 278. On May 27, 2010, this Court entered an order as follows: *See* Docket No. 284

ORDER as to Nelson Acevedo-Cruz, Noraida Beltran. The record shows that defendant Nelson Acevedo filed a motion to vacate sentence under 28 U.S.C. sec. 2255 (Docket No. 278), as well as defendant Noraida Beltran (Docket No. 277). The docket further shows that both defendants have filed a response challenging the forfeiture claim filed by the Government, see Docket No. 282. The Court differs ruling and holds in abeyance defendants' motions on the forfeiture claim (Docket No. 282), until defendants' motions under section 2255 (Docket entries No. 277 and 278), are decided. IT IS SO ORDERED.

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On September 29, 2010, judgments were entered dismissing with prejudice petitioners' request under Title 21, United States Code, Section 2255. The Court also denied a Certificate of Appealability pursuant to Title 28, United States Code, Section 2253(c)(2). *See* Docket Nos. 289 and 292.

In accordance with Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316; and Title 21, United States Code, Section 853(n), the United States posted notice of the forfeiture of the properties and the requirements for filing a claim for the properties on March 18, 2010, on an official government internet site (www.forfeiture.gov), as required by law. Notice of Filing was made to the Court on April 20, 2010. *See* Docket No. 280. Pursuant to Title 21, United States Code, Section 853(n), any person asserting a legal interest in the property subject to forfeiture may, within thirty (30) days of the final publication of notice, or of receipt of actual notice, whichever is earlier, petition the Court for a hearing to adjudicate the validity of his/her alleged interest in the property.

In the present case, no other claims were filed and any other claim would be time barred.

WHEREFORE, it is respectfully requested that a Final Order of Forfeiture be entered by this Honorable Court declaring the forfeiture of the defendant properties to the United States of America in accordance to law and declares that the properties be forfeited to the United States.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all appearing parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 29th day of August, 2012.

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United States Attorney

/s/M González
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

[1] NELSON ACEVEDO-CRUZ,
[2] NORAIDA BELTRAN,
Defendants.

CRIMINAL NO. 04-381 (DRD)

FINAL ORDER OF FORFEITURE

WHEREAS, on July 3, 2006, plaintiff, United States of America, and Nelson Acevedo-Cruz and Noraida Beltrán (“defendants”) reached a Stipulation Regarding Forfeiture that sought the forfeiture of the following properties as charged in the Indictment:

- i. TWO CONTIGUOUS TRACTS OF LAND EQUALING APPROXIMATELY 10.5 CUERDAS INCLUDING A TWO LEVEL CONCRETE STRUCTURE, WITH SEVEN BEDROOMS, AND A DETACHED MULTI-LEVEL GARAGE, LOCATED AT PR 4419, KM 2.0, NARANJO WARD, MOCA, PUERTO RICO.
- ii. All United States currency in Banco Popular de Puerto Rico Account 485052304 in the name of [1] Nelson Acevedo-Cruz, totaling approximately \$94,097.89 dollars.
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- iv. All United States Currency in Western Bank Account 2800000919 in the name of [1] Nelson Acevedo Cruz and Edwin Cortes totaling approximately \$4,383.00 dollars.

AND WHEREAS, pursuant to the terms and conditions of the Stipulation Regarding Forfeiture and Restitution, defendants agreed to forfeit any right and interest in the properties to the United States of America;

AND WHEREAS, moreover, defendants agreed that an amount of \$100,000.00 is to be imposed as restitution, and the amount of restitution imposed by the Court shall be satisfied from the proceeds of the sale of the property identified as (i);

AND WHEREAS, accordingly on July 3, 2006, criminal judgments were entered against

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defendant Nelson Acevedo-Cruz and Noraida Beltrán;

AND WHEREAS, on May 7, 2007, the Court entered an Amended Preliminary Order of Forfeiture which any and all of the defendants' interest in the properties are forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316;

AND WHEREAS, in accordance with Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316; and Title 21, United States Code, Section 853(n), the United States posted notice of the forfeiture of the properties and the requirements for filing a claim for the properties on March 18, 2010, on an official government internet site (www.forfeiture.gov), as required by law. Notice of Filing was made to the Court on April 20, 2010. Pursuant to Title 21, United States Code, Section 853(n), any person asserting a legal interest in the property subject to forfeiture may, within thirty (30) days of the final publication of notice, or of receipt of actual notice, whichever is earlier, petition the Court for a hearing to adjudicate the validity of his/her alleged interest in the property;

AND WHEREAS, On January 12, 2009, defendants filed a Motion to Vacate under Title 28, United States Code, Section 2255; and on September 29, 2010, the Court entered judgements dismissing with prejudice petitioners' request; and also denied the Certificate of Appealability pursuant to Title 28, United States Code, Section 2253(c)(2);

AND WHEREAS, no third parties have filed a claim on the properties and any claims submitted at this time would be time barred;

Now, therefore, on motion of the United States for a Final Order of Forfeiture, it is:

ORDERED, ADJUDGED AND DECREED that the properties are forfeited to the United States of America pursuant to Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316:

IT IS FURTHER ORDERED, that any and all forfeited funds, including but not limited to currency, currency equivalents, and certificates of deposit, as well as any income derived as a result of the United States Marshals Service management of any property forfeited herein, and the proceeds from the sale of any forfeited property, after the payment of costs and expenses incurred in connection with the forfeiture, sale, and disposition of the forfeited properties, shall be deposited forthwith by the United States Marshals Service into the Department of Justice Asset Forfeiture Fund in accordance with Title 18, United States Code, Section 982(a)(1), referring to Title 31, United States Code, Section 5316.

IT IS FURTHER ORDERED, that the Property Registry for the pertinent section shall record the above described property identified as (i) free and clear of all liens in the name of the United States; and that the amount of the restitution imposed, that is \$100,000.00 shall be satisfied from the proceeds of the sale of the property identified as (i); and

IT IS FURTHER ORDERED, that the Clerk of the Court shall forward certified copies of this Order to the United States Attorney's Office, Attention: Assistant U.S. Attorney, Maritza González Rivera, the USMS and the FBI.

IT IS ORDERED.

San Juan, Puerto Rico, _____, 2012.

DANIEL R. DOMINGUEZ
UNITED STATES DISTRICT JUDGE